

Agenda item: 01

Staff person handling: Jim Lynch

Date/location: January 25, 2006 in Helena, MT

Item: **Approval of minutes**

Background

Staff presents minutes from the following meetings to the commission for review and approval:

- a. November 14, 2005 (conference call)
- b. November 18, 2005 (approval of TCP)
- c. December 12, 2005 (conference call)

Notes/discussion

Commission action

Montana Transportation Commission

November 14, 2005 – Telephone meeting

Please note: an audio recording of the meeting is available from the transportation commission secretary at (406) 444-7200 or ldemont@mt.gov. Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200 or visit the commission's web site at http://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml. The TTY number is (406) 444-7696 or 1-800-335-7592.

Note: => indicates follow-up is needed.

draft

The Montana Transportation Commission met via conference call on November 14, 2005. The meeting was called to order by Chairman Kennedy at 10:05 am with the following participants:

Bill Kennedy, Transportation Commission Chair (District 5)
Nancy Espy, Transportation Commission Vice Chair (District 4)
Rick Griffith, District 2 Transportation Commissioner
Jim Lynch, MDT Director
Jim Currie, MDT Deputy Director
Tim Reardon, MDT Chief Counsel
Loran Frazier, MDT Chief Engineer
Lorelle Demont, Commission Secretary

1. Agenda item 1: Award projects from November 3, 2005 letting

Loran Frazier reviewed staff recommendations (see attached) for the following eight projects:

#	Project	County/ies	District	Low bid amount
2	NH 57-6(11)280 & STPP 51-1(3)0 <i>Circle - Southeast & Jct MT 200 S - Northeast</i>	Dawson & McCone	Glendive	\$ 4,169,138.13
3	STPS 432-2(5)40 & NH 1-6(55)342 <i>Rudyard - South & Rudyard - Gildford</i>	Hill	Great Falls	\$ 2,687,869.20
4	SFCN 5-2(141)93 <i>Somers - South</i>	Flathead & Lake	Missoula	\$ 2,095,927.95
5	NH 10-2(30)43 <i>Fort Benton - Loma</i>	Chouteau	Great Falls	\$ 1,598,204.50

6	NH 1-4(32)292 <i>Devon - E & W</i>	Toole	Great Falls	\$ 1,198,486.33
7	STPX 56788(8) <i>NE of Billings - NE</i>	Yellowstone	Billings	\$ 1,179,117.91
8	NH 99-1(9)0 <i>Malta – Northeast</i>	Phillips	Glendive	\$ 1,250,246.35
9	BR 9028(10) <i>Wolf Creek - 8 km E of Vida</i>	McCone	Glendive	\$ 865,429.21
10	STPHS 61-3(22)85 <i>2000-Guardrail-3 km South of Fergus County Line-South</i>	Fergus	Billings	\$ 651,995.75
11	STPHS 90-6(105)317 <i>2001-Trail Creek Interchange-East of Bozeman</i>	Gallatin	Butte	\$ 735,119.10
12	STPHS 205-1(32)27 & STPHS 411-1(9)0 <i>2002-Signal-Jct S-411 & 2002-Signal-Jct S-412</i>	Gallatin	Butte	\$ 204,022.49
13	STPHS-STPP 52-2(28)51 <i>MT 35/Sec 317 Intersection - Kalispell</i>	Flathead	Missoula	\$ 398,831.09
14	IM 0002(392) <i>D1 - Interstate Guardrail</i>	Mineral	Missoula	\$ 290,774.83
15	STPHS 0002(676) <i>1998 - D1 - Guardrail</i>	Flathead & Lake	Missoula	\$ 294,378.88
16	STPHS 263-1(22)6, STPHS 292-1(5)0 & STPHS 0002(759) <i>2001-Delineators-West of Missoula, 2001-Safety Improvement-Kalispell-North & 2002-D1-Signing</i>	Flathead, Missoula & Sanders	Missoula	\$ 75,293.48
17	NH 102-1(2)8 <i>57th-2nd Ave N/ 10th Ave S-Great Falls</i>	Cascade	Great Falls	\$ 466,176.48

Commissioner Griffith moved to accept staff recommendations to award 15 of the 16 projects (projects two through sixteen), excluding project #17; Commissioner Espy seconded the motion. All three commissioners voted aye.

2. Speed limit on US 191 during bison migration

Jim Lynch updated the commission on a situation developing on US Highway 191. The buffalo are migrating out of West Yellowstone and are crossing Highway 191. Given winter conditions and the accident potential (a truck has already hit a big bull), we have been asked to reduce the speed limit. As a temporary measure, we have already put out warning signs and lowered the speed limit to 55 mph from where US 287 comes in to US 191 south to West Yellowstone (about four miles). If it needs to be lowered further, we will do that.

We are asking the Transportation Commission to concur with this action and, since the migration is expected to run through February 15, authorize a temporary lowered temporary speed limit for that duration.

Commissioner Espy said this is an excellent plan. She moved to concur with the department's recommendation to temporarily reduce the speed limit on US 191 to 55 mph

from just north of the junction with US 287 south to West Yellowstone until February 15, 2006. Commissioner Griffith seconded the motion. All three commissioners voted aye.

The call concluded at 10:25 am.

Bill Kennedy, Chairman
Montana Transportation Commission

Jim Lynch, Director
Montana Department of Transportation

Lorelle Demont, Secretary
Montana Transportation Commission

attachment

Montana Transportation Commission

November 18, 2005 meeting ~ 8 am

MDT Headquarters Building ~ 2701 Prospect Avenue, Helena MT

In attendance:

Bill Kennedy, Transportation Commission Chair –District 5 (by phone)
Nancy Espy, Transportation Commission Vice Chair – District 4
Kevin Howlett, Transportation Commissioner – District 1
Rick Griffith, Transportation Commissioner – District 2
Deb Kottel, Transportation Commissioner – District 3
Jim Lynch, Director –Montana Department of Transportation (MDT)
Jim Currie, MDT Deputy Director
Tim Reardon, MDT Chief Counsel
Sandra Straehl, MDT Rail, Transit & Planning Administrator
Loran Frazier, MDT Chief Engineer
Janice Brown, FHWA Division Administrator
Mike Duman, Assistant FHWA Division Administrator
Jeff Ebert, Butte District Administrator
Mick Johnson, Great Falls District Administrator
Bruce Barrett, Billings District Administrator
Ray Mengel, Glendive District Administrator
Dwane Kailey, Missoula District Administrator
Lorelle Demont, Transportation Commission Secretary

draft

Please note: the complete recorded minutes are available for review on the commission's website at www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml. You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary at (406) 444-7200 or ldemont@mt.gov. Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

Approval of the Tentative Construction Program (TCP)

Bill Kennedy conferenced in and deferred the chairmanship to Vice Chair Espy.

Espy called the meeting to order at 8:03 am. The pledge of allegiance was followed by an invocation offered by Commissioner Howlett.

Espy said we are here to approve the proposed TCP, and turned the meeting over to Jim Currie and Director Jim Lynch.

Lynch said he has learned a lot this week, going through this involved process of preparing for today. He expressed appreciation for the congressional delegation and their work to bring us the funds we have to work with, especially the earmarked funds. He said I think this is a good plan and it lives within its means. He turned the discussion over to Currie.

Currie welcomed the commissioners. For the record, I should go back and recap what we did and how we got to where we are. Every year this time, we go through what we call the Redbook process, which I've tried to change to the Tentative Construction Program, or TCP, but haven't been successful yet. In that process, we look at our asset management system, and using the data from that system, we provide some direction on funding and project mix. We review the next four years coming up in the TCP and add a fifth year. This time around, we added 2010. It was a rather interesting process – for the first time in several years, we had a transportation bill and have a good idea of what our apportionment and obligation limits will be over the next four years, although the year we added is beyond the life of the transportation bill.

Last month, we met and looked at our asset management system, also known as P³, the Performance Programming Process. We ran a series of “what if” scenarios on our asset management system to determine what recommendations to bring to the commission in terms of project mix and funding allocation to provide the best level of service on the transportation system as a whole that we can get. The commission set that direction in a meeting on November 1. We've been spending the interim time since then taking the anticipated revenues and getting that allocated out to our fiscal programming staff and our preconstruction engineer to try to put together a basic plan. We started a series of meetings on Monday, and met on district five on Monday, district two on Tuesday, districts three and four on Wednesday, and five on Thursday. We were not able to totally financially constraining the program for each district.

What we had to do yesterday after having gone through that process, was sit down and recap the whole thing and see how what we did fit in with total obligation authority. One of the things that caught us by surprise yesterday was that we had been working off apportionment when we have to actually balance against obligation authority. There is about a seven percent difference between those two. That, in addition to the fact that we're slightly over programmed, means that we had to move a lot of projects out.

The sheet in front of you is a recap of everything that's been done. A lot of the below the line earmarks come into play in 2009. The only value you will see in the TCP for earmarked projects is the amount we have to pay over and above the value of the earmark. There are no earmarks in 2010. 2010 at this point in time is somewhat speculative since we don't have a bill that goes that far out. There are a lot of daunting issues that face the next reauthorization and frankly we don't know where we'll end up.

We added \$5 million per year for redistribution or grab bag. We are successful virtually every year in getting authority through this revenue source. This last year we got \$11 million, which was high. The total available federal obligation limitation for 2006 is \$289,766,000, with project commitments in the amount of \$295,721,407, which means we are \$5,955,407 over programmed in FY 06. That goes up to about \$18 million in FY 07, \$25 million in FY 08, \$15 million in FY 09. There are some benefits of being slightly over programmed in our obligation authority: we have to have projects coming off the conveyor belt in such a

fashion that if we run up against an obstacle on a given project that we have a back-up project in place. So we do over program a little bit. It was necessary for us last night to go through that fairly unpleasant process of fiscally constraining this to the point that it is because document will be the basis by which the department will submit its budget for the 2009 biennium at the 2007 legislative session.

While it's okay to over program, as we have done, to over program it by \$50 or 60 million would be submitting a budget that's greater than what we actually need and it would show a match from the Highway State Special Revenue Fund (HSSRF) that would be higher than it actually is. It would not cast an accurate view on the state of the HSSRF.

You've all seen the sheets and at this point we don't need to go over individual projects. I will note that we did not transfer any obligation authority between financial districts. That's the first time in the last two or three TCP sessions that we've not done that.

My recommendation is that you approve this Tentative Construction Program, realizing it is not totally fiscally constrained, and that your direction to the department is that this is the blueprint from which you want the Federal-aid program delivered and direct the department to deliver it within the limitation of the state and federal resources we have. We will do everything we can to maximize those resources through redistribution or perhaps earmarks as well.

Commissioner Kennedy asked about where the above- and below-the-line earmarks are shown in the TCP. Lynch said the below-the-line earmarks are already built into this. Currie said projects marked MP have earmarked funds associated with them. We are working with the various sponsors on those and as they become ready, we will bring those to you. For the most part, those above-the-line earmarked projects haven't had any preliminary work done on them, so they won't be built until the end of the bill or beyond.

=> Lynch said staff will bring a list of the above-the-line projects and the expected timeframes.

Commissioner Howlett thanked the staff for the diligent work they've done on the process. He reflected on the process and said this is the third time that I've been through this; it doesn't get any easier. We had a bill to work with, and that helped. Beyond 2009, things could change drastically in terms of priorities.

Commissioner Howlett moved to adopt the recommendations of staff and move this program along; Commissioner Kottel seconded.

Vice Chair Espy asked if there was any discussion. Commissioner Griffith asked about the 2009 budget. We are \$10 million positive that year, or -\$15 if the carryover is computed. We moved Harrison Avenue, which is one of the highest priorities for my community and

one of the few visible projects for 2009 and 2010 and I have a lot of grief with that. I need to get that project up, if not this year, next. That's the entrance to our community.

Currie said one of the things that we held very strong to was not to let our preventative maintenance go in favor of a reconstruction project.

Chairman Kennedy noted that there are projects that are 15-20 years old and we are trying to mitigate the problems we've had with those projects. As soon as we start working through this year and getting a better feel for the dollars that came in through the highway bill, we will be in a better position to look at this project next year to see where we may be able to work it in.

Lynch pointed out that Harrison Avenue has a ready date of September 2009, which means we have some time. It gives us a lot of flexibility to look at that project. It would be a good candidate for a future earmark.

Currie mentioned the old projects out there and said one thing we kept in front of us through the process was a list of projects that are approaching an age where we will have to pay the federal government back if we don't advance the projects. It's something we committed to Federal Highways that we would do this time. We addressed all of those except one; we did kill one project – the Eureka rest area – and we will have to reimburse FHWA for the federal funds expended on that project.

Commissioner Kottel asked how inflation is factored into these figures. It seems like every meeting, we're approving change orders that go beyond the original estimate of the project.

Currie responded that we have factored in inflation. We actually took great care in determining that the inflation was reasonable. We ended up buying a program on that index and used that. What is *not* factored in to these costs are overruns (change orders).

There is another thing I should tell you. If you look at the line called estimated preliminary engineering right-of-way and incidental construction, it shows a zero all the way across. In fact, we have factored in the cost of doing that. It's built into the figures up above. I've asked Jensen to footnote that in the document to indicate that. We have built in about \$56 million per year for preliminary engineering and right-of-way and incidental costs. It goes up to about \$60 million for the rest of the years out. That's pretty close to what we've actually been experiencing.

A few years ago, the commission asked us to reduce our PE to make more funding available for actual construction, which we were able to do. However, right-of-way went up. It just seems that there is a certain percentage that goes to those costs.

The other thing you don't see that's built into this is indirect cost (IC). One thing that will start occur in 2008, we will start having to using the indirect cost that we collect to maintain

balance in the HSSR fund. That will have an impact on these numbers, about –\$20 million. I don't believe that's reflected in this TCP; we will have to look at this more closely next year.

Commissioner Kottel asked if project overruns are not included, how are they handled in future years? Are projects just moved?

Currie said that was the reason he recommended the commission direct us to manage the program within the available resources. We will manage these overruns to the absolute minimum we can. Nationwide, our overruns are below average. We usually run about \$12 million in overruns.

Commissioner Kottel asked how we were impacted when the legislature mandated that we apply for the indirect cost. Currie – all that bill did for us was it took a dollar out of this pocket and put it into this pocket. You should be aware that that IC cost that we collect, which is about \$50 million a year, is not constitutionally restricted. The legislature, could, technically, take that money and use it any way they wanted. Right now, the HSSR is showing a minimal fund balance through 2011.

Lynch said, more importantly, it allows us to maintain our highway program which is very much federally funded without having to go back to the taxpayers and ask for a fuel tax increase.

Chairman Kennedy said we talked about the amount of dollars in the pool for secondary roads. Did we figure out what the problem was in the Missoula district? Currie – we did meet on that yesterday morning. There are a couple of problems there. Part of it is that back about the time we switched over to this new process, we had completed a lot of projects in that district. We had a gap, if you will, and with the level of work going on in that district, some of the secondary projects did get a lower priority than they should have. The other problem in that financial district is we're only getting about 50 percent of the counties coming to the table. Four counties have not submitted priorities. That has held us up. What we're going to do is move forward and hold another meeting. The counties will be informed that if they don't show up, their nomination will show up as zero, or the committee may nominate projects for them. Hopefully that will bring them to the table and we can get some projects nominated. There is enough work in that district to use all the funds through 2010, but the problem is that some of the projects in that district are very difficult to build. We will be encouraging the counties to nominate projects that are realistic and buildable. => Chairman Kennedy said I would like to go to that meeting with you.

Commissioner Kottel asked how the urban funds would be handled. Currie – we will be bringing those urban funds to you at your meeting on December 7. The urban program is a statewide program that is basically run by the local governments. We can do one of two things: we can go through those projects with you, or go through it and bring the results to you. Commissioner Kottel asked if we approve some of these smaller silos of money, such as the

urban program, without knowing what projects are scheduled, do we have an opportunity to change this later?

Currie said this is a living document and probably will change every two weeks. The reality is every time you approve a revised letting list, you change this. Every time you add a project to the program, you change this TCP. The bottom line is, yes, you will have an opportunity to change this.

Commissioner Espy said this is a living document but it is our guide and lays out a financial blueprint of where we're at, where we're going and where we hope to be at the end of the next five fiscal years.

All five commissioners voted aye; the motion passed unanimously.

Currie thanked the commission for their involvement. This is probably the first time that we've had all the commissioners involved all the way through. Lynch said I really want to express to my appreciation the staff. They have to go through a lot, including the DAs that are out meeting the public and having to explain why projects are delayed. He thanked them for being very responsible and positively cooperative through the process.

Frazier thanked Jim Walther and the engineering staff. The process started in July; the first thing we had to deal with was escalating fuel prices, and had to adjust for escalating cement, steel, and materials prices in August. He acknowledged Jim Walther, Sandy Straehl and Dave Jensen: the three of them have put in a lot of time on this process.

Commissioner Kottel said when I came here I was unsure about the process. I have been involved in a lot of governmental activity over my lifetime. I have never seen a process that works as well as this. To have data-driven decisions linked to a strategic plan is a wonderful way to run government. I couldn't be more comfortable with how this was done. Everyone is to be congratulated for putting a system together that all of us can walk away from feeling good about a decision that is indeed what's best for the state of Montana.

Commissioner Howlett acknowledged Jan and her staff at Federal Highways for their flexibility and for working with us.

Vice Chair Espy said we were asked by Ellen Trygstad of Bozeman to submit a letter for the record, about including more rail transportation. It's much too late for this particular year.

Currie said we are expecting a gentleman by the name of Tony Kolnik to appear during the public comment period. Vice Chair Espy said we will take a break until 9 am and then make the call for public comment. Chairman Kennedy signed off.

After the break, Vice Chair Espy called for public comment. None was received. Commissioner Kottel moved to adjourn the meeting; Commissioner Howlett seconded the motion. All four commissioners voted aye.

The meeting adjourned at 9:02 am.

Nancy Espy, Vice Chair
Montana Transportation Commission

Jim Lynch, Director
Montana Department of Transportation

Lorelle Demont, Secretary
Montana Transportation Commission

Montana Transportation Commission
December 12, 2005 – Telephone meeting

draft

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The TTY number is (406) 444-7696 or 1-800-335-7592.

Note: => indicates follow-up is needed.

The Montana Transportation Commission met via conference call on December 12, 2005. The meeting was called to order by Chairman Kennedy at 10:05 am with the following participants:

Bill Kennedy, Transportation Commission Chair (District 5)
Nancy Espy, Transportation Commission Vice Chair (District 4)
Kevin Howlett, District 1 Transportation Commissioner
Deb Kottel, District 3 Transportation Commissioner
Jim Lynch, MDT Director
Jim Currie, MDT Deputy Director
Tim Reardon, MDT Chief Counsel
Mark Wissinger, MDT Construction Engineer
Lorelle Demont, Commission Secretary
Marvin Rehbein, Riverside Contracting Inc.

Agenda item 2: Award projects from December 1, 2005 letting

On behalf of Chief Engineer Loran Frazier, Mark Wissinger reviewed staff recommendations (see attached) for the following fourteen projects:

2. Bighorn River - Hardin

Project BR 384-1(12)0

Three bids were tendered. There were no errors or omissions in the low bid which was 21.35 percent over our engineers' estimate. Wissinger referenced the discussion materials that were attached to the commission's agenda packet. The engineers' estimate was too low on some items, specifically the relocate structure/detour item and the structural steel. Using revised

prices for these items brought the engineers' estimate to \$5,427,818. The low bid is then 6.5 percent over the engineers' estimate, and within guidelines for award.

As part of the bidding procedure on this project, the contractor had to indicate which gravel sources he intends to use. Morgen and Oswood Construction Co Inc indicated their intent to bring most of the material for this project from commercial sources off the reservation, with the exception of special borrow material from the Dunmore pit on the Crow Reservation. This pit is jointly owned by Carol "Sue" Riley and Edwina Old Coyote Melkus, a DBE firm.

Staff recommended the contract be awarded to Morgen And Oswood Construction Co Inc in the amount of \$5,781,910.77.

3. US 287 Pass Ln - N Three Forks

Project NH 8-4(32)102

Five bids were tendered. There were no errors or omissions in the low bid which was 4.91 percent over our engineers' estimate.

Staff recommended the contract be awarded to Jim Gilman Excavating Inc in the amount of \$5,123,200.18.

4. Structures - S Of Pray

Project BR 540-1(13)6

Four bids were tendered. There were no errors or omissions in the low bid which was 2.66 percent over our engineers' estimate.

Staff recommended the contract be awarded to Sletten Construction Company in the amount of \$1,269,043.00.

5. Tarkio-East, Alberton - East & West & Fencing - Alberton Fire Damage

Project IM 90-1(155)64, SFCI 90-1(156)74 & IM-STPS 0002(820)

Two bids were tendered. There were no errors or omissions in the low bid which was 4.73 percent over our engineers' estimate.

Staff recommended the contract be awarded to Riverside Contracting Inc in the amount of \$1,392,974.46.

6. Jct I-94 - South

Project STPP 48-1(27)18

Two bids were tendered. There were no errors or omissions in the low bid which was 7.24 percent under our engineers' estimate.

Staff recommended the contract be awarded to J T L Group Inc - Billings in the amount of \$1,386,401.40.

7. D5 - Scour Protection

Project BH 0002(745)

Two bids were tendered. There were no errors or omissions in the low bid, however it was 69.96 percent over our engineers' estimate and outside the guidelines for award. Frank Donnes of Donnes Inc. indicated that, as part of putting his bid together, he'd visited with DEQ regulators about the project. They apparently told him they would require a temporary facility permit, along with dewatering and coffer dams on the Yellowstone River. The additional work, along with the increased level of difficulty, accounts for the significant difference between the engineers' estimate and the low bid.

The second low bid also reflects a substantial increase in cost associated with the temporary facility permit. We can justify revising our engineers' estimate to \$827,265. The low bid is then 8.3 percent over revised engineers' estimate, and within guidelines for award.

Currie asked if the resource agency [DEQ] had input into this project prior to this point. Wissinger said they did. Currie said it bothers me that this came in so late. Lynch asked for detail and intends to meet with the head of DEQ to share the information with him.

Currie said the bridge is already scoured down to the footing, so we couldn't take the risk of delaying the repairs.

Staff recommended the contract be awarded to Donnes Inc in the amount of \$896,116.00.

8. Lavina - East

Project STPP 14-4(21)146

Three bids were tendered. There were no errors or omissions in the low bid which was 9.63 percent under our engineers' estimate.

Staff recommended the contract be awarded to Century Companies Inc in the amount of \$1,581,198.45.

9. Eureka - South, Eureka - North & South, and Fortine - North

Project NH 5-4(29)173, NH 5-4(30)177 & NH 5-4(28)168

Two bids were tendered. There were no errors or omissions in the low bid which was 3.43 percent under our engineers' estimate.

Staff recommended the contract be awarded to Schellinger Const Co Inc in the amount of \$1,076,066.09.

10. Trout Creek-Northwest

Project STPP 6-1(108)23

Two bids were tendered. There were no errors or omissions in the low bid which was 3.37 percent over our engineers' estimate.

Staff recommended the contract be awarded to Montana Materials Inc (dba) L S Jensen in the amount of \$211,821.79.

11. Checkerboard - West & White Sulphur Springs - South

Project STPP 14-2(27)56 & STPP 14-2(28)33

One bid was tendered. There were no errors or omissions in the low bid which was 22.6 percent over our engineers' estimate, and therefore outside the guidelines for award.

Riverside provided us a letter justifying their bid. A copy was included in the commission's agenda materials.

Wissinger explained that we made some last minute changes to the specification for seal-and-cover work. We had intended to include it in the new spec book to be released in 2006, but, in recognition of the volume of seal-and-cover work coming up, we elected to include the new specification in our contracts via special provision. We don't know the impact that had on competition or pricing.

Staff recommends the contract be rebid.

12. Jct US 12 – N

Project SFCS 284-1(3)0

Four bids were tendered. There were no errors or omissions in the low bid which was 11.71 percent under our engineers' estimate.

Staff recommended the contract be awarded to Helena Sand & Gravel Inc in the amount of \$188,169.04.

13. Sunburst - South, Pondera County Line-South & Great Falls - Vaughn

Project IM 15-8(62)380, IM 15-7(31)343 & IM 15-5(112)282

One bid was tendered. There were no errors or omissions in the low bid which was 18.93 percent over our engineers' estimate, and therefore outside the guidelines for award. A copy of Riverside's justification letter was included in the commission's agenda materials.

Wissinger explained that the same information about the recent change to the specification for seal-and-cover work applied to this project. Staff recommends the contract be rebid.

14. Augusta - Choteau & Choteau – North

Project STPP 9-1(14)40 & STPP 3-2(46)42

One bid was tendered. There were no errors or omissions in the low bid which was 10.83 percent over our engineers' estimate.

Staff recommended the contract be awarded to Riverside Contracting Inc in the amount of \$865,000.40.

15. Belt – Southeast

Project NH 57-1(5)0

Two bids were tendered. There were no errors or omissions in the low bid which was 54.28 percent under our engineers' estimate. Wissinger expressed confidence that this contractor has done this type of work for us a number of times in the past and is well aware of what the project will entail.

Staff recommended the contract be awarded to Highway Specialties Inc in the amount of \$28,597.52.

Commissioner Kottel asked why we only got one bid on types of projects like number 13, which is a decent sized job. Staff had no explanation and asked Rehbein for his comments. Rehbein said his bids were fair and would be a good buy for the state. He said if MDT rebids the two projects, Riverside's prices will likely be higher because they will have moved from the area and their crushing scenario would be different. He didn't have any insight as to why his company was the only bidder on three projects.

Commissioner Kottel moved to accept staff recommendations to award 13 of the projects as presented (projects 2,3,4,5,6,7,8,9,10,12,14, and 15) and reject the bids for projects 11 and 13; Commissioner Espy seconded the motion. All four commissioners voted aye.

Chairman Kennedy invited Marvin Rehbein to come to the January meeting of the Transportation Commission if he wished to discuss this in any further detail. Rehbein said he respected the staff and their work, and respected the commission as doing their best for the state. Lynch said Riverside is a good contractor and does a lot of work for the state.

The call concluded at 10:30 am.

Bill Kennedy, Chairman
Montana Transportation Commission

Jim Lynch, Director
Montana Department of Transportation

Lorelle Demont, Secretary
Montana Transportation Commission

attachment

Agenda item: 02

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 in Helena, MT

Item: **Adopt the 2006 edition of the** *Standard Specifications for Road and Bridge Construction*

Background

The Construction Administration Services (CAS) Bureau has completed the 2006 edition of the standard specifications and requests that the commission adopt this version to be included in all construction projects starting with the April 2006 letting.

The 2006 edition is a compilation of the 1995 edition, all supplemental specifications issued since 1995 (270 in all), and 32 standard special provisions that have been used in projects for the last several years (see attached lists for specifics). All of the standard special provisions have gone through the CAS Bureau's specification revision process (copy attached) that has an internal and external review process, which includes FHWA and the Montana Contractors' Association.

The 2006 edition uses dual units (English and metric units of measure), consistent with the 1995 edition. The new edition also has numerous spelling, grammar, and punctuation corrections and minor wording changes that aid clarity and consistency while reducing duplication. The final draft version has been reviewed and approved by FHWA.

Summary

The 2006 edition of the *Standard Specifications for Road and Bridge Construction* combines two sets of specifications (standard and supplemental) and commonly used special provisions (known as standard special provisions) that have been used in contracts during the last several years, into a single document.

This compilation will significantly reduce the size of bid package proposals and contracts, as well as reduce the chance for conflicts in contract language, and consolidate the information in fewer locations.

This edition contains no additional requirements or information that has not gone through the revision process and been approved by FHWA. Future requests for changes to a specification will be subject to the review process outlined in the January 9, 2002 memo by Construction Engineer Mark Wissinger entitled *Supplemental Specification Process* (attached).

Staff recommendations

Staff recommends approval and adoption.

Notes/discussion

Commission action

Agenda item: 03

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006 in Helena, MT

Item: **2004 Safety Engineering Improvement Program**

Background

Based on the 1999-2003 crash records in the Transportation Information System, staff from MDT's Safety Management Section identified locations with highest crash rates, severity rates, severity indices and the highest number of crashes on the rural federal, state and local highway systems. Districts, some local governments and enforcement agencies submitted safety review requests for safety evaluation. Recommended counter-measures for each location listed are the result of field reviews conducted by personnel from the respective district offices, safety management staff and occasionally FHWA personnel and tribal transportation planners.

Projects with an estimated cost of \$50,000 or above require commission approval. The attached list includes the projects with their general location, identified countermeasures and benefit-cost ratios. The projects on this list are grouped for letting and design purposes. Only projects with a benefit-cost ratio of 3.38 and above are being recommended for funding at this time. Implementation of the recommendations will be accomplished through Federal-aid safety funds.

Staff recommendations

Staff recommends the commission approve the *2004 Safety Engineering Improvement Program* for projects contained on attachment #1, with preliminary construction costs above \$50,000 and a benefit-cost ratio of 3.38 and above.

Notes/discussion

Commission action

Agenda item: 04

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006 in Helena, MT

Item: **Secondary Roads Capital Construction Program – Butte District**

Background

MDT is requesting commission approval for capital improvements to various state secondary roads within the Butte district. Project nominations for the Secondary Roads Capital Construction Program were requested from the nine counties in the Butte district and the Butte district administrator. The county commissioners from these nine counties approved the new priority list (see attachment 1) for the program by a majority vote (see attachment 2).

Summary

The priority projects from the 2005 Butte District Secondary Roads priority list are:

1. S-276, RP 3.5 – 7.98, **Brown's Gulch Road**, Silver Bow County
Reconstruction of gravel surface to paved surface. Estimated total project cost is \$5.185 million.
2. S-235, RP 0.0 – 1.95, **Valley Center Road**, Gallatin County
Reconstruction of paved surface. Estimated construction phase is \$3.1 million (previously approved by the Transportation Commission from prior project split, included for informational purposes).
3. S-295, RP 9.5 – 10.5, **Mission Creek Road**, Park County
Slide Repair. Estimated total project cost \$820,000.
4. S-399, RP 18.3 – 25.1, **Whitetail Road**, Jefferson County
Reconstruction of gravel surface to paved surface. Estimated total project cost is \$8.01 million.
5. S-540, RP 4.0 – 11.472, **East River Road**, Park County (MDT request),
Reconstruction of paved surface. Estimated total project cost is \$9.05 million.
6. S-249, RP 3.0 – 7.4, **Varney Road**, Madison County
Reconstruction of gravel surface to paved surface. Estimated total project cost is \$5.185 million.
7. S-569, RP 9.5 – 15.07, **Mill Creek Road**, Deer Lodge County

Reconstruction of paved surface. Estimated total project cost \$6.595 million.

8. S-324, RP 27.7 – 34.567, **Bannock Pass**, Beaverhead County
Reconstruction of gravel surface to paved surface. Estimated total project cost \$8.17 million.
9. S-284, RP 31.66 – 36.68, **Canyon Ferry Road**, Broadwater County
Rehabilitation of paved surface. Estimated total project cost \$6.045 million.
10. S-294, RP 7.9 – 8.4, **Martinsdale Road**, Meagher County
Reconstruction of two sub-standard curves over abandoned railroad bed. Estimated total project cost \$744,000.

The new projects will be programmed for preliminary engineering when funding becomes available for the Butte District Secondary Roads Capital Construction Program. At this time, the first two priorities can move forward.

Staff recommendations

Staff recommends the commission approve the above projects to the program.

Notes/discussion

Commission action

Agenda item: 05

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006 in Helena, MT

Item: **Locally funded construction projects on state and federal system routes in the cities of Billings, Deer Lodge, and Hamilton, and Valley County**

Background

Under M.C.A. § 60-2-111 *letting of contracts on state and federal aid highways*, all projects for construction or reconstruction of highways and streets located on state designated routes, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure safety of our system, protection of transportation investments, and to encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments twice per year, to solicit local projects on state systems to ensure compliance with this statute.

Summary

The city of Billings is planning to design and build transportation improvement projects on the State Urban System. The city of Hamilton is planning to design and build transportation improvement projects on the National Highway System. Deer Lodge is planning to replace a bridge on the Secondary Highway System. Valley County is graveling 19 miles on the Secondary Highway System. The local governments have conducted public involvement processes on all of these improvements. As reported by the local governments, the public supports these projects. Listed in attachment "A" are locations, scopes, estimated costs, funding sources, and anticipated letting dates. Also, attached are project location maps.

The projects will be designed with input and concurrence from MDT staff. On behalf of the cities of Billings, Deer Lodge, and Hamilton, and Valley County, as required by M.C.A. 60-2-111, planning staff is requesting that the Transportation Commission delegate authority to the cities and county to let and award the contracts for the projects listed in Attachment A. Projects will be competitively bid.

Staff recommendations

Staff recommends the commission approve the projects and delegate its authority to let, award, and administer the contracts for these projects to the cities of Billings, Deer Lodge, and Hamilton, and Valley County, pending concurrence on the design plans from MDT's chief engineer.

Informational Items

Staff would also like to inform the commission of two other local projects that have taken place in Billings. These items do not need commission approval as they are already completed.

- The first project was the new road construction of Arlene Street from Broadwater Avenue (U-1006) to Poly Drive. This route intersects our urban system at Broadwater Street, however it is not on-system. This route was built using funds from a \$5.2 million General Obligation Bond approved by Billings's voters in 2003.
- The second project is a widening project that took place in Billings, on Central Avenue (U-1008) between 29th Street West and 35th Street West. Project funding was mostly private, with small amounts of funding from fuel tax allocations, and storm water assessments. Both projects were coordinated with district input.

Also, because staff is now gathering proposed letting information from local governments on a six-month cycle, it is anticipated that "after-the-fact" project information such as this will diminish or be eliminated.

Notes/discussion

Commission action

Agenda item: 06

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006 in Helena, MT

Item: **System action in Missoula County on the state Secondary Highway System**

Background

The Missoula County Commissioners request that the Transportation Commission approve adding Waldo Road/Frenchtown Frontage Road (MDT Local Road # 32-167) from US 93 to an intersection near the Huson Interchange onto the Secondary Highway System. The combined mileage of these roads is 10.935.

Mileage proposed to be added to the Secondary Highway System

The proposed portion of Waldo Road/Frenchtown Frontage Road originates at the junction of US 93, 1.2 miles north of the Desmet Interchange on I-90 (attachment #1). The route continues for approximately 10.93 miles in a northwest direction paralleling I-90 to the junction of the Huson Interchange crossroad (MDT route X-32168), approximately 15 miles northwest of the City of Missoula. MDT conducted a review of the roadway and determined the 26-foot wide paved surface to be in fair condition. The road is functionally classified as a major collector.

*Mileage proposed to be **deleted** from the Secondary Highway System*

According to commission past practice of requesting the deletion of a like number of miles, Missoula County proposes to drop Pattee Canyon Drive/ Deer Creek Road, Secondary 533 from the system (attachment #2). Pattee Canyon Drive/Deer Creek Road originates at the southeast urban boundary. The 22-foot wide paved surface continues east approximately 4.3 miles to the Pattee Canyon Campground. MDT review determined this portion of the roadway to be in poor condition and in need of major rehabilitation. The route then transitions to a gravel surface, continuing in a northerly direction for approximately 7.7 miles terminating in East Missoula. This gravel segment of roadway varies between 16 and 24 feet in surface width.

Summary

In accordance with MDT System Action Policy, the addition to the Secondary Highway System will remain the maintenance responsibility of the county until improved to MDT standards. Missoula County has requested Waldo Road/ Frenchtown Frontage Road as their top priority for Secondary Highway System funding if this system action is approved. They would propose a pavement rehabilitation project for this route.

Staff recommendations

Staff recommends the Commission approve:

- The addition of Waldo Road/Frenchtown Frontage Road, from US 93 to the junction of the Huson Interchange crossroad (MDT route X-32168), to the Secondary Highway System, **with the provision that the state will not be responsible for maintenance of the route until it has been reconstructed to state standards.**
- The removal of Pattee Canyon Drive/Deer Creek Road, Secondary 533 from the Secondary Highway System.

Please note that these are interrelated actions and should be taken together.

Notes/discussion**Commission action**

Agenda item: 07

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006

Item: **Enhancement project on MDT right-of-way (US 93)**

Canal footbridge – Hamilton

Background

The Commission approves Community Transportation Enhancement Program (CTEP) projects that are located on or adjacent to state designated streets and highways. The following CTEP project is funded with the enhancement set-aside of the Surface Transportation Program, which is allocated by population to Montana local and tribal governments. The communities select projects for funding with their allocation and provide the required non-federal match. The program is based on an agreement between MDT and Montana local and tribal governments.

The project proposed for addition to the program is the *Canal Footbridge* in Hamilton.

Canal footbridge – Hamilton

This enhancement project will design and construct a footbridge and abutments over the Corvallis Canal in North Hamilton with touch-down points inside US 93 right-of-way. The bridge is part of a sidewalk system and designated as a pedestrian bridge. The bridge will be 10 feet wide and 60 feet 8 inches in length. The estimated total project costs are \$81,700, which consists of \$200 for preliminary engineering and \$81,500 for construction.

Including this project, the city of Hamilton will have obligated \$328,051 of the \$341,53 made available through the CTEP program.

Summary

All work will be in accordance with current design standards and ADA requirements.

Staff recommendations

Staff recommends the commission approve the addition of this project to the program.

Notes/discussion

Commission action

Agenda item: 08

Staff person handling: Sandra Straehl, Rail, Transit & Planning Administrator

Date/location: January 25, 2006 in Helena, MT

Item: **Chip- seal project on Interstate 15**

Augusta Interchange-Hardy Creek

Background

MDT is requesting commission approval for the addition of a seal and cover (chip-seal) project into the program. This 18.734-mile project is located on I-15 between Helena and Great Falls, beginning at reference point 229.099 and ending at reference point 247.829.

This location was originally crack-sealed in 2005 through a combination of MDT maintenance and contractor forces. The cracks being sealed were longitudinal and therefore at right angles to the driving lanes. In mid-summer 2005, the crack sealant began to be tracked out of the cracks by vehicles, and at this time, the seal has been completely pulled out of the cracks. The mix used for the sealant was a standard mix design that for some reason did not work in this location.

The intent of the requested project is to protect the crack seal from potential tracking through a seal and cover (chip-seal) to both northbound and southbound driving lanes until major rehabilitation can be accomplished.

This project wasn't identified in the recently developed Tentative Construction Program, and, as such, action is needed to fiscally constrain the program. The additional federal fiscal year 2006 obligation authority would come from the following tentative construction plan adjustments made at the December 13, 2005 project status meeting in order to finance the *August Interchange – Hardy Creek* project:

- *Shelby-East*, a district 3 NH project estimated to cost \$588,400, was moved to January 2007.
- *2000 Safety Imp-South of Jct S-279*, a district 3 SPHS project estimated to cost \$320,000, was moved to January 2007.

Summary

MDT proposes utilizing Interstate Maintenance (IM) funds for the seal and cover (chip seal) portion of the project. The estimated total project cost is \$788,000, consisting of \$40,000 for preliminary engineering, \$680,000 for construction, and \$68,000 for construction engineering.

Staff recommendations

Staff recommends the commission approve the above project to the program.

Notes/discussion

Commission action

Agenda item: 09

Staff person handling: Tim Reardon, Chief Counsel and Right-of-Way Staff

Date/location: January 25, 2006 in Helena, MT

Item: **Proposed new administrative rules for outdoor advertising**

Background

The Right-of-Way Bureau has undertaken a review and rewrite of various portions of the Administrative Rules of the Commission controlling the permitting and enforcement of outdoor advertising signs. The last major revision was done in 2005.

Both the bureau staff and the director's office have been receiving complaints about certain types of signs such as local community "Welcome To ____" signs, directional signs and off-premise changeable message signs. The complaints claim that the present rules are too restrictive. Since the bureau staff was rewriting those rules, a review was undertaken to examine all of the rules. The result is the proposed draft notice as attachment 1, which proposes the adoption of one new rule and the amendment of seven existing rules.

This is one of the areas where the Transportation Commission by law, Section 75-15-121 MCA, must adopt the Administration Rules, not the department. Because it is always a good idea to hold a public hearing when adopting such rules, the proposed notice will contain the appointment of a hearing officer, Tim Reardon, and a proposed date to be set at least 28 days after the notice is printed in the Montana Administrative Register.

Staff recommendations

Staff from MDT's Legal Unit and Right-of-Way Bureau recommend that the Transportation Commission approve the proposed notice and have the chairperson sign the notice to be filed with the Secretary of State's office for publication in the Register. After the public hearing is conducted and comments are received, the department's Legal Unit and Right-of-Way Bureau will finalize the proposed changes to the rules. That document will be submitted to the commission for final review and adoption. Once adopted in final form by the commission, the new rules will be filed with the Secretary of State's office for printing in the Administrative Rules of Montana (ARM).

Notes/discussion

Commission action

Sub-Chapter 2

Outdoor Advertising Regulations

RULE I OFFICIAL SIGNS (1) Official signs must be erected and maintained by a public officer or agency.

(2) Official signs must be erected within the territorial jurisdiction or zoning jurisdiction of the public officer or agency. This means that the officer or agency must exercise some form of governmental authority over the area upon which the sign is located.

(3) Official signs must be erected pursuant to direction or authorization contained in Federal, State or local law. This means that the officer must be directed by statute and/or must have the specific authority by statute to erect and maintain signs and notices.

(4) Local governments may erect, within the limits of their jurisdiction, official signs welcoming travelers and describing the services and attractions available but may not advertise private business or brand names.

(5) Not more than one official sign welcoming visitors or providing information about a community is allowed on each highway entering the community, subject to Federal and State Outdoor Advertising Control (OAC) Rules.

(6) On Interstate Highways, official "welcome to" signs may be erected within 5 miles of a community. Not more than one "welcome to" sign in each direction is allowed.

(7) An official sign of a local government will not be considered in determining the spacing required between conforming outdoor advertising signs located off premises.

AUTH: 75-15-121, MCA

IMP: 75-15-111, 75-15-113, MCA

REASON: Most Montana communities are rural in nature and have no avenue to inform the traveling public of their location. Additionally, "Welcome to" signs erected by local authority with no commercial advertising comes into compliance with the CFR as official signage.

RULE II RECOGNITION OF SPONSORS, BENEFACTORS AND SUPPORT GROUPS

An on-premise sign owner may;

(1) Recognize the name of a sponsor, benefactor or support group if;

(a) the "thank you" identifies the name of the sponsor, benefactor or support group, is of a non-commercial nature and does not include promotional information such as address, phone number, hours of operation or product logos. (Any advertising is prohibited); and

(b) the "thank you" display is limited to a recognition plaque that does not exceed 2% of the total sign face or 1 foot x 36 inches whichever is less and

(c) a reader board display with a maximum "display time of 20 minutes during a 14 day period; and

(d) not more than three recognition plaques may be erected on a sign structure which is visible to traffic proceeding in any one direction on any interstate or primary highway; and

(e) the sign owner must obtain a permit from MDT to display "thank you" recognition; the permit application must include the type of display and purpose for the recognition.

AUTH: 75-15-121, MCA

IMP: 75-15-111, 75-15-113, MCA

REASON: Schools and non-profit groups with on premise signs are requesting that the existing rules be revised to allow them to communicate to the public their appreciation to sponsors, benefactors and support groups who contribute to those organizations. This rule would give these on premise sign owners the ability to meet that need while conforming to federal and state law.

18.6.202 DEFINITIONS (1) Remains as is.

(2) "Commercial electronic variable message signs"(CMS) means electrical or electromechanical signs on which messages can be changed remotely through hard wire or wireless communications and have the capability to present a large amount of text and/or symbolic imagery. ~~contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, producing the illusion of movement by means of electronic, electrical or electro-mechanical input~~ Other names for CMS are "variable message signs"(VMS), "dynamic message signs" (DMS), "smart boards" (SBS), "tri-vision" (TVS) , or digital display (DD), and/or have the characteristics of one or more of the following classifications:

(2)(a) - (6) Remain as is.

(7) "Noncommercial sign" means a sign that does not display a commercial message. For the purpose of this rule, only ~~"welcome to" community and "public service"~~ signs such as DARE, ~~or~~ ABATE, are considered noncommercial signs. The Montana department of transportation shall make the determination of a noncommercial sign designation on a case-by-case basis.

(8) - (12) Remain as is.

(13) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers, welcome to, public utility signs authorized by State law and erected by State or local government agencies may be considered official signs.

Auth: 75-15-121, MCA

Imp: 75-15-121, 75-15-111, 75-15-112, AND 75-15-113, MCA

REASON: Changes in the definitions rule were done to clarify some definitions that have caused disputes with reference

to prior interpretations and to clarify new language to the rules.

18.6.211 PERMITS (1) - (4) Remain as is.

(5) The initial permit fee must be paid within 30-days from the approval of the application or the permit may be canceled.

~~(5)~~(6) 5 is renumbered 6.

~~(6)~~(7) 6 is renumbered 7.

~~(7)~~(8) 7 is renumbered 8.

(9) Ownership of a sign permit will not be transferred without the expressed written consent of the permit holder(s). The current permit holder(s) must sign the document transferring the permit.

(10) Permits cannot be canceled except by the written request of either the permit holder(s) or the landowner (s) subject to the department's approval or by violations of the provisions of the Outdoor Advertising Act. The document requesting cancellation of a permit must be signed by the current permit holder or the landowner(s).

(11) If the permit holder(s) are unable or unwilling to sign the cancellation document, the landowner(s) may request cancellation of the permit by providing the department with a document stating the reason for cancellation (such as termination of the land lease between the permit holder(s) and the landowner(s) and indicating whether the landowner(s) have purchased the sign structure or if the sign structure will be removed. The landowner(s) must sign this document.

AUTH: 75-15-121 and 75-15-122, MCA

IMP: 75-15-122

REASON: The transfer of permits is addressed in Chapter nine of the Right-of-Way manual, which has no force of law. Additionally, the new language clarifies the process of transferring permits for the sign owners and landowners.

18.6.212 PERMIT APPLICATIONS - NEW SIGN SITES

(1) - (2)(b) Remain as is.

(3) The applicant must clearly mark the physical place the sign is to be erected with the exact location of the proposed sign site to enable department personnel to perform the required site inspection.

AUTH: 75-15-121, MCA

IMP: 75-15-122, MCA

REASON: This rule was incomplete with the need to give adequate information so that departmental personnel could find the proposed sign sites to do the required site inspections.

18.6.221 NEW SIGN ERECTION (1) The sign owner within six months of the date of issuance of the permit will:

(a) erect the sign structure (an extension of time to erect the structure may be granted upon written request from the sign owner and at the discretion of the Montana Department of Transportation);

(b) - (c) Remain as is.

(d) attach name plaque to structure identifying the sign owner.

~~(d)~~ (e) d is lettered e.

(2) Remains as is.

AUTH: 75-15-121, MCA

IMP: 75-15-122, MCA

REASON: This is a clarification which is reasonably necessary to identify of the sign owner who is often out of state. Additionally, it has been a customary practice to grant an extension of time of erect a sign structure beyond that required by the rules at the discretion of the department for reasons such as weather conditions or situations beyond the sign owners control but, does not have the force of law.

18.6.232 COMMERCIAL ELECTRONIC VARIABLE MESSAGE SIGNS

(1) Off-premise commercial electronic variable message signs (CMS), regardless of the message, are prohibited in controlled areas. which presents a new message, pictorial image, or change illumination at a rate less than one every six seconds is determined to be flashing or moving light and are prohibited in controlled areas.

(2) A commercial electronic variable message sign (CMS), may be approved as an off-premise outdoor advertising sign within the zoning jurisdiction of city and town areas if the sign does not contain flashing, intermittent, or moving lights, and does not cause a glare on the roadway and the following conditions are met:

(a) A message on a sign must have a minimum display (dwell) time of 6 seconds and a maximum change (twirl) interval of 3 seconds; and

(b) A sign must contain a mechanism that will stop the sign in one position if a malfunction occurs; and

(c) Signs shall be water tight, with service holes to provide access to each compartment with fitted waterproof covers; and

(d) Signs must not be placed with illumination that interferes with the effectiveness of or obscure any official traffic sign, device or signal; and

(e) Signs must not include or be illuminated by flashing, intermittent or moving lights; and

(f) Signs must not cause beams or rays of light to be directed at the traveled way if the light is of such intensity or brilliance or is likely to be mistaken for a warning or danger signal or to cause glare or impair the vision of any driver, or to interfere with the driver's operation of a motor vehicle; and

(g) Illumination or lights for signs must not resemble or simulate any lights used to control traffic; and

(h) Jumping arrows or rapid chasing or flashing lamp borders is prohibited; and

(i) Techniques of message display such as fading, exploding, dissolving messages are prohibited; and

(j) Signs shall only be constructed as a single face, back-to-back or two-faced V-shaped structure. Only one face may be visible in each direction of the main traveled way. Side by side or stacked signs are prohibited;

(k) Signs are prohibited on horizontal and vertical curves; and

(l) Signs are prohibited within 1000 feet of an interchange or railroad crossing and within 500 feet of an intersection; and

(m) Signs shall not be placed within 2000 feet of another sign measured along the nearest edged of the pavement between points directly opposite the signs on the same side of the roadway; and

(n) Signs located within 1000 feet of highway work zones where changing traffic patterns, sudden stops, workers, pedestrians and work equipment are present will be turned off for that period of time to be determined by the Montana department of transportation; and

(o) Portable signs may not be used as permanent illuminated signage; only fixed signs are permitted; and

(p) Wording that implies a traffic control or highway emergency (for example, use of the word "STOP" is prohibited).

(q) Traffic Control Device (TCD) signs or symbols (such as an eight-sided stop sign) in signs are prohibited; and

(r) No sign may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be brighter than necessary for adequate visibility shall be adjusted by the person owning or controlling the sign in accordance with the instructions of the Montana Department of Transportation; and

(4) An existing sign may be modified or updated if the sign conforms with established criteria relating to zoning, size, lighting and spacing. Prior approval from the Montana Department of Transportation is required to modify existing signs, to include a new sign application and a new nonrefundable application fee of \$200.00 will be charged.

AUTH: 75-15-121, MCA

IMP: 75-15-111 and 75-15-113, MCA

REASON: "Forty-one of the 46 states with billboards allow changeable message technology. As technological innovations continue to out pace government regulations, the trend line is moving toward nearly all states (with billboards) to accommodate changeable message signs." Embracing this new technology is good business for Montana advertisers and consumers.

18.6.242 RANCH AND RURAL DIRECTIONAL SIGNS (1) ~~In rural residential areas, slat-type directory~~ Directional signs are allowed at the outer edge of the right-of-way of the intersecting

roadways that enter into the main travel way, and may only be erected along the federal-aid primary highway system, giving the name only. Each ~~slat~~ directional sign is not to exceed ~~8" x 36"~~ 4' X 8'.

(2) In cases where operations do not abut the highway, but have access via a nonpublic access road across other ownerships, directional signs may be located along this roadway leading to the operation., ~~may bear the name of the operation or owner and distance to headquarters, but shall include no advertising.~~ The message content on directional and ranch signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations further describing the activity or its environs are prohibited.

(3) ~~Ranch and rural directional signs may only be erected along the federal-aid primary highway system. The message content on rural directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations further describing the activity or its environs are prohibited.~~ Not more than one ranch sign or directional sign may be erected which is visible to traffic proceeding in any one direction on any highway and advertising activities being conducted upon the real property, including ranching, grazing, and farming activities

(4) - (6) Remain as is.

~~(7) Not more than one ranch sign may be erected which is visible to traffic proceeding in any one direction on any primary highway and advertising activities being conducted upon the real property, including ranching, grazing, and farming activities.~~

AUTH: 75-15-121, MCA

IMP: 75-15-111 and 75-15-121, MCA

REASON: Further clarification is needed to bring this rule into compliance with the CFR. This amendment is reasonably necessary to reflect current changes to the CFR and recognizes the growing concern by rural Montanans that the activities were being unreasonably restricted in being able to alert the public as to their location and activity conducted on their property.

18.6.245 NONCOMMERCIAL SIGNS (1) If a noncommercial sign is located on property of the owner of the sign, it shall be considered to be an on-premise sign and not subject to the provisions of this rule.

(2) A noncommercial sign of a local government may be erected anywhere adjacent to an interstate and primary highway within its territorial or zoning jurisdiction, except in a scenic area or parkland, so long as the sign does not create a safety hazard to the traveling public.

(a) A noncommercial sign will not be considered in determining the spacing required between conforming outdoor advertising signs located off premises.

~~(b) Local government may erect, within the limits of their jurisdiction, noncommercial signs welcoming travelers and describing the services and attractions available but may not advertise private business or brand names.~~

~~(c) Not more than one noncommercial sign welcoming visitors or providing information about a community is allowed on each highway entering the community, subject to federal and state outdoor advertising control (OAC) rules.~~

~~(3) A noncommercial "welcome to" community sign shall not exceed 150 square feet in size.~~

~~(4)(3)~~ 4 is renumbered as 3.

~~(5)(4)~~ 5 is renumbered as 4.

AUTH: 75-15-121, MCA

IMP: 75-15-111, MCA

REASON: To come into compliance with the CFR and make this rule more community friendly. There is a reasonable necessity for the amendment of this rule to clarify the need of local communities to advise the public of their location.

Agenda item: 10

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 in Helena, MT

Item: **Letting lists**

Background

Staff will distribute the most current lists of upcoming projects slated for advertisement and bid letting.

Staff recommendations

Staff recommends approval of the letting lists.

Notes/discussion

Commission action

Agenda item: 11

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006

Item: **Certificates of completion**

Background

Attached are certificates of completion for November 2005.

Summary

<i>Month</i>	<i>Original contract amount (monthly total)</i>	<i>Final payment amount (monthly total)</i>
November 2005	\$30,803,577	\$33,035,027

Staff recommendation

Staff recommends approval.

Notes/discussion

Commission action

Agenda item: 12

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 in Helena, MT

Item: **Project change orders**

Background

Attached are change orders for November 2005.

Summary

<i>Month</i>	Total
November 2005	\$1,218,022.38
	\$1,218,022.38

Staff recommendation

Staff recommends approval.

Notes/discussion

Commission action

Agenda item: 13a

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 Helena, MT

Item: **Liquidated damages**

IM 94-5(33)189 *Culvert Repair – 7km E of Fallon*

Background

Century Companies Inc of Lewistown, MT overran the contract time by 8 days. We wrote the contractor several times beginning on September 20, 2005 of the overrun of contract time. Century Companies responded disputing the assessment of liquidated damages, until Nov 22, 2005 when Century Companies Inc dropped their request for reduction of the liquidated damages. Our recommendation is noted below.

Summary

Award Date:	May 12, 2005	Proceed Date:	May 13, 2005
Work Began:	May 17, 2005	Work Completed:	Jul 23, 2005
Contract Time:	40 calendar days	Work Extensions:	0 working days
Time Used:	48 calendar days	Overrun:	8 days
Contract Amount:	\$679,141		

Staff recommendations

We recommend assessing 8 days at \$1,171 per day for a total of \$9,368.

Notes/discussion

Commission action

Agenda item: 13b

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 in Helena, MT

Item: **Liquidated damages**

SFCS 365-1(6)1 – *East of Brady – East*

Background

Schellinger Construction Company Inc of Columbia Falls, MT overran the contract time by 4 days. We wrote the contractor on October 31, 2005 of the overrun of contract time. They were informed they had 30 days in which to respond if they intended to request a waiver from the Commission. They were informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is noted below.

Summary

Award Date:	Feb 7, 2005	Proceed Date:	Mar 14, 2005
Work Began:	Mar 14, 2005	Work Completed:	Sep 7, 2005
Contract Time:	45 working days	Work Extensions:	0 working days
Time Used:	49 working days	Overrun:	4 days
Contract Amount:	\$1,330,819		

Staff recommendations

We recommend assessing 4 days at \$1,505 per day for a total of \$6,020.

Notes/discussion

Commission action

Agenda item: 13c

Staff person handling: Loran Frazier, Chief Engineer

Date/location: January 25, 2006 in Helena, MT

Item: **Liquidated damages**

SFCS 573-1(1)0 *Medicine Lake - E*

Background

Prince Inc of Forsyth, MT overran the contract time by 4 days. We wrote the contractor on October 31, 2005 of the overrun of contract time. They were informed they had 30 days in which to respond if they intended to request a waiver from the Commission. They were informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is noted below.

Summary

Award Date:	Feb 7, 2005	Proceed Date:	Mar 14, 2005
Work Began:	Mar 30, 2005	Work Completed:	Aug 31, 2005
Contract Time:	50 working days	Work Extensions:	0 working days
Time Used:	54 working days	Overrun:	4 days
Contract Amount:	\$1,480,619		

Staff recommendations

We recommend assessing 4 days at \$1,505.00 per day for a total of \$6,020.00

Notes/discussion

Commission action

Agenda item: 14

Staff person handling: Jim Lynch, Director

Date/location: January 25, 2006 in Helena, MT

Item: Set schedule for development of the 2006-2011 Tentative Construction Program

Background

At the last commission meeting, staff agreed to provide a timeline for the development of the Tentative Construction Program (TCP) in the fall of 2006.

Staff recommendations

Staff proposes the following dates:

- TCP prep meeting during the meeting already scheduled for September 13-14
- Project-specific meetings for each district: October 16-19, 2006
- Regular commission meeting on October 20 with an agenda item for formal approval of the final TCP (note: the commission has already blocked October 18-20 for meeting time)

Notes/discussion

Commission action

Agenda item: 15

Staff person handling: Jim Lynch, Director

Date/location: January 25, 2006 in Helena, MT

Item: **Commission discussion**

Agenda item: 16

Staff person handling: Jim Lynch, Director

Date/location: January 25, 2006 in Helena, MT

Item: **Public comment**
